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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/684,207
Filing Date: October 10, 2003
Appellant(s): GOLD ET AL.

Randy A. Noranbrock
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 10, 2008 appealing from the Office action mailed July 9, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

However, the last Office action of record included a typographical error that did not list Claims 24 and 25 under the heading as being rejected under 35 U.S.C. 103(a) per Bolin et al. in view of Jennings. Both Claims 24 and 25 were correctly rejected under Bolin et al. in view of

Jennings in the body of the rejection *(see page 9 of the Final Rejection mailed on July 9, 2008)*,

but were not correctly listed in the header as being rejected under that basis *(see page 3 of the*

same action). This typographical error was not present in the Appellant's appeal brief, and has

been corrected in the Grounds of Rejection below.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Jennings, Roger. Using Access 97, Platinum Edition. 1997. Que Corporation. pp 82-83

| 5664146 | Bolin et al. | 09-1997 |
| 2002/0152181 | Kanai | 10-2002 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC ' 103 – Bolin and Jennings

Claims 1-9, 13-15, 19-22, and 24-27 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Bolin et al. *(US Patent 5,664,146)* in view of Jennings *("Using Access 97")*.

As per **Claim 1**, Bolin disclose(s) a method comprising:

receiving a list comprising media *(cartridge, figure 5 and column 9 line 51*

through column 10 line 43) and at least two backup devices *(device 361 and 363, figure*

5 and column 9 line 51 through column 10 line 43), wherein a first medium of the list is

assigned to a first backup device, and a second medium of the list is assigned to a

second backup device *(as seen in figure 5)*;

presenting at least the media portion of the ordered list to a user *(figure 5)*.

Bolin shows the physical location of the cartridges when they are at the home location

and not in a device *(the home location Vlt14R4 of figure 5 corresponds to a physical bin location

in figure 4)*, and also the device they are located in *(device 361/363, figure 5)*, but does not

show the physical location of the actual device. At the time of the invention, it would have been

obvious to modify Bolin's data server GUI window to show a physical location of a device in an

equivalent format as the home location. The motivation for doing so would have been obvious to

a person having ordinary skill in the art and would have been the same as the motivation to

show the physical location of the home location, making the device easier to find when there are

a large number of devices or the devices are spread out over a large area *(such as is the case

for home locations, column 10 lines 21-30 and figure 4)*. Therefore, it would have been obvious

to modify Bolin to include a physical location of the device in an equivalent format as the home

location for the benefit of making the device easier to find when there are a large or widely

distributed number of devices.

Additionally, Bolin does not disclose explicitly and purposefully ordering the list by

physical location of the backup devices. Bolin does disclose a Windows-style GUI for displaying

multiple columns, each column having a heading representing the data included in that column

for each row. The Examiner notes that it is notoriously well known in the art in Windows-style

GUI systems to be able to order a column in ascending or descending order if so desired. As an

example, Jennings discloses ordering a set of rows by a given column in ascending or

descending order *(sort ascending / sort descending buttons, table 3.2)*. Bolin and Jennings are

analogous art in that they both deal with Windows-style GUI lists with multiple columns.

At the time of the invention it would have been obvious to modify Bolin to allow sorting the list view of figure 5 by any of the given columns as taught by Jennings. The motivation for doing so would have been obvious to a person having ordinary skill in the art and would have been that it allows the faster finding of a specific value for that column *(for example, to find what cartridge is in a specific device)*. Therefore, it would have been obvious to modify Bolin to allow sorting by an arbitrary column as taught by Jennings for the benefit of quick visual searches of column values, to obtain the invention of <u>Claim 1</u>.

Accordingly, Bolin view of Jennings disclose(s) ordering the list by physical location of the at least two backup devices *(Jennings, as combined above)* based on proximity of the remaining devices of the at least two backup devices to the first backup device *(Bolin, location "VLT 17 R1" means vault 17, rack 1, column 11 lines 1-7; both correspond to physical locations in figure 4 and are interpreted as being based on proximity, so sorting by the text displayed in figure 5 would involve at least a partial sorting based on what vault and rack the cartridge is on)*.

As per **Claim 2**, <u>Bolin</u> and <u>Jennings</u> disclose(s) the method of <u>Claim 1</u>, further comprising before receiving the list, configuring a physical location for each of the backup devices *(Bolin, as combined above, to display the list of each physical location for the devices, a physical location must have been configured, figure 5)*.

As per **Claim 3**, <u>Bolin</u> and <u>Jennings</u> disclose(s) the method of <u>Claim 2</u>, wherein configuring the physical location comprises obtaining information for one or more site locations and assigning each of the backup devices to one of the site locations *(Bolin, as combined above, any physical location can be considered a 'site' location, column 10 lines 21-30)*.

As per **Claim 4**, <u>Bolin</u> and <u>Jennings</u> disclose(s) the method of <u>Claim 3</u>, wherein configuring the physical location further comprises:

        obtaining information for one or more data centers, each of the data centers

associated with one of the site locations *(Bolin, the data center is considered the set of*

one backup device at that location, the information for the data center being the physical

location of the data center, column 10 lines 21-30); and

        assigning each of the backup devices to one of the data centers *(Bolin, as*

combined above, assigning a physical location to the device).

    As per **Claims 5, 6, 21 and 22**, Bolin and Jennings disclose(s) the method of Claim 2,

and as combined disclose assigning a physical location to a backup device and logging this

information as data in a list, but do not appear to disclose the physical location comprises

assigning a grid location in a data center to at least one of the backup devices, or a grid location

containing an order number. However these differences are only found in the nonfunctional

descriptive material and do not change how the invention functions. Thus, this descriptive

material will not distinguish the claimed invention from the prior art in terms of patentability, see

In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Circ. 1983); In re Lowry, 32 F.3d

1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of

ordinary skill in the art at the time the invention was made to have the physical location be a grid

location because the subjective interpretation of the data does not patentably distinguish the

claimed invention.

    As per **Claim 7**, Bolin and Jennings disclose(s) the method of Claim 5, wherein

assigning a grid location comprises for at least one of the backup devices, automatically

assigning, to the backup device, a grid location of a system attached to the backup device

(Bolin, if the physical location of an operational backup device can be considered a grid location,

then the immediate system of connection (like a plug) to which the device is connected can be

considered to have the same grid location).

As per **Claim 8**, Bolin and Jennings disclose(s) the method of Claim 1, wherein ordering the list comprises ordering the list of media by an order number associated with each of the backup devices *(Bolin, order number would be physical location)*.

As per **Claim 9**, Bolin and Jennings disclose(s) the method of Claim 1, wherein receiving the list comprises: receiving a list of media from a user to be used for one or more future executions of one or more backup jobs associated with the backup devices *(Bolin, all the cartridges are used for storage of data, and are either intended to be written to or read from in the future, figure 5, alternatively step 260 of figure 6 can be considered as sending a list of one media to be loaded and used, figure 6)*.

As per **Claim 13**, Bolin and Jennings disclose(s) a system comprising:

a planner to receive a list comprising media *(Bolin, cartridge, figure 5 and column 9 line 51 through column 10 line 43)* and at least two backup devices *(Bolin, device 361 and 363, figure 5 and column 9 line 51 through column 10 line 43)*, wherein a first medium in the list is assigned to a first backup device, and a second medium in the list is assigned to a second backup device *(Bolin, as seen in figure 5)*, and to order the list by physical location of the at least two backup devices *(Jennings, table 3.2)* based on proximity of the remaining devices of the at least two backup devices to the first backup device *(Bolin, location "VLT 17 R1" means vault 17, rack 1, column 11 lines 1-7; both correspond to physical locations in figure 4 and are interpreted as being based on proximity, so sorting by the text displayed in figure 5 would involve at least a partial sorting based on what vault and rack the cartridge is on)*; and

a user interface, communicatively coupled to the planner, to present at least the media portion of the ordered list to a user *(Bolin, figure 5)*.

As per **Claim 14**, <u>Bolin</u> and <u>Jennings</u> disclose(s) the system of Claim 13, further comprising a configuration agent, communicatively coupled to said planner, to configure a physical location for each of the backup devices *(Bolin, as combined above, a human)*.

As per **Claim 15**, <u>Bolin</u> and <u>Jennings</u> disclose(s) the system of Claim 13, wherein said user interface is further to receive a list of media to be used for one or more future executions of one or more backup jobs associated with the backup device and to transmit the list to said planner *(Bolin, all the cartridges are used for storage of data, and are either intended to be written to or read from in the future, figure 5, alternatively step 260 of figure 6 can be considered as sending a list of one media to be loaded and used, figure 6)*.

As per **Claim 19**, <u>Bolin</u> and <u>Jennings</u> disclose(s) at least one machine-readable medium having stored thereon sequences of instructions, which, when executed by a machine, cause the machine to perform the actions of:

receiving a list comprising media *(Bolin, cartridge, figure 5 and column 9 line 51 through column 10 line 43)* and at least two backup devices *(Bolin, device 361 and 363, figure 5 and column 9 line 51 through column 10 line 43)*, wherein a first medium of the list is assigned to a first backup device, and a second medium of the list is assigned to a second backup device *(Bolin, as seen in figure 5)*;

ordering the list by physical location of the at least two backup devices *(Jennings, table 3.2)* based on proximity of the remaining devices of the at least two backup devices to the first backup device *(Bolin, location "VLT 17 R1" means vault 17, rack 1, column 11 lines 1-7; both correspond to physical locations in figure 4 and are interpreted as being based on proximity, so sorting by the text displayed in figure 5 would involve at least a partial sorting based on what vault and rack the cartridge is on)*; and

presenting at least the media portion of the ordered list to a user *(Bolin, figure 5)*.

As per **Claim 20**, <u>Bolin</u> and <u>Jennings</u> disclose(s) the medium of Claim 19, wherein the instructions comprise instructions, which, when executed by the machine, cause the machine to perform the actions of before receiving the list, configuring a physical location for each of the backup devices *(Bolin, as combined above, to display the list of each physical location for the devices, a physical location must have been configured, figure 5)*.

As per **Claim 24**, <u>Bolin</u> and <u>Jennings</u> disclose(s) the method of Claim 1, wherein the media are physically loaded into a backup device by a user in at least two different physical locations *(Bolin, figure 5)*.

As per **Claim 25**, <u>Bolin</u> and <u>Jennings</u> disclose(s) the method of Claim 1, wherein the at least two backup devices are assigned to two different site locations and wherein the ordering comprises ordering the list by physical location of the site locations of the at least two backup devices *(Bolin, as combined, where site locations are the physical locations of the devices, figure 5)*.

As per **Claim 26**, Bolin and Jennings disclose(s) the method of <u>Claim 4</u>, wherein configuring the physical location comprises: assigning a global order number to a data center based on proximity of the data center to a first data center *(Bolin, vault number, where the devices are stored in an equivalent manner as cartridges, column 11 lines 1-7)*.

As per **Claim 27**, Bolin and Jennings disclose(s) the method of <u>Claim 8</u>, wherein the ordering the list by an order number comprises ordering the list by an order number indicative of the proximity of a backup device to the first backup device *(Bolin, vault number, where the devices are stored in an equivalent manner as cartridges, column 11 lines 1-7)*.

**Claims Rejections – 35 USC ' 103 – Bolin, Jennings and Kanai**

Claims 10-12, 16-18 and 23 are rejected 35 U.S.C. 103(a) as being unpatentable over

Bolin et al. _(US Patent 5,664,146)_ and Jennings _("Using Access 97")_ as combined above, in

further view of Kanai _(US Patent Publication 2002/0152181)_.

As per **Claims 10, 16 and 23**, but more specifically to Claim 10, Bolin and Jennings as

combined disclose(s) a method comprising:

receiving a list comprising media _(Bolin, cartridge, figure 5 and column 9 line 51_

through column 10 line 43) and at least two backup devices _(Bolin, device 361 and 363,_

figure 5 and column 9 line 51 through column 10 line 43), wherein a first medium in the

list is assigned to a first backup device, and a second medium in the list is assigned to a

second backup device _(Bolin, as in figure 5)_;

ordering the list by physical location of the at least two backup devices _(Jennings,_

table 3.2) based on proximity of the remaining devices of the at least two backup devices

to the first backup device _(Bolin, location "VLT 17 R1" means vault 17, rack 1, column 11_

lines 1-7; both correspond to physical locations in figure 4 and are interpreted as being

based on proximity, so sorting by the text displayed in figure 5 would involve at least a

partial sorting based on what vault and rack the cartridge is on); and

presenting at least the media portion of the ordered list to a user _(Bolin, figure 5)_,

wherein receiving a list of media from a user to be used for one or more future

executions of one or more backup jobs associated with the backup devices _(Bolin, all the_

cartridges are used for storage of data, and are either intended to be written to or read

from in the future, figure 5, alternatively step 260 of figure 6 can be considered as

sending a list of one media to be loaded and used, figure 6).

Bolin and Jennings do not appear to disclose said method further comprising, before receiving the list, calculating a required number of scratch media needed for future executions of a backup job and presenting the required number of scratch media to the user.

Kanai discloses calculating a number of media needed for future executions of a backup job and presenting the required number of scratch media to a user *(paragraphs 18-19)*.

Bolin as combined with Jennings and Kanai are analogous art in that they have to do with data storage. At the time of the invention it would have been obvious to a person having ordinary skill in the art to modify the GUI of Bolin and Jennings to show the number of scratch media needed by a user, as taught by Kanai. The motivation for doing so would have been that rented storage allows users to be released from the burden of maintenance of storage and thereby have less responsibility of administration *(Kanai, paragraph 5)*. Therefore, it would have been obvious to combined the system of Bolin and Jennings with Kanai's rented storage for the benefit of easier administration, to obtain the inventions of Claims 10, 16 and 23.

As per **Claims 11 and 17**, but more specifically to Claim 11, Bolin, Jennings and Kanai disclose(s) the method of Claim 10, wherein calculating comprises: obtaining backup job information from one or more backup applications for the backup jobs *(Kanai, history of usage, paragraph 18)*; and using the backup job information to calculate the required number of scratch media needed for the future executions *(Kanai, paragraph 18)*.

As per **Claims 12 and 18**, but more specifically to Claim 12, Bolin, Jennings and Kanai disclose(s) the method of Claim 10, wherein calculating the required number of scratch media comprises for at least one of the future executions, dividing an average historical backup size of the backup job by an average capacity of a media type associated with the backup job *(Kanai, figure 17)*.

(10) Response to Argument

Claim Rejections - 35 USC ' 103 – Bolin and Jennings

Regarding **Claim 1**, the Appellant contends *(pg 10, "First …")* that: **"The result of**

sorting a column of Bolin according to a combination with Jennings would appear to be

an ascending or descending sorting of said column and not a sort based on proximity".

The Examiner respectfully disagrees, and asserts that a sort of said column is a sort based on

proximity because the values being sorted are representative of proximity. Bolin's locations are

textual representations of the location of a cartridge, and sorting them would therefore be

sorting based on said representation.

Bolin discloses displaying the home location of a cartridge, such as VLT17R1 *(column*

11 lines 1-7, figure 4). This textual representation is meant to imply that the cartridge's home

location is located in Vault 17 (VLT17) and on Rack 1 (R1). Therefore, either an ascending or

descending sort would put all cartridges with home locations of Vault 17 and Rack 1 next to

each other, because they have the same textual representation of their home location. Likewise,

either an ascending or descending sort would put all cartridges with home locations of Vault 17

and Rack 1 *(VLT17R1)* either above or below those cartridges having a home location of Vault

14 and Rack 4 *(VLT14R4, figure 5)*.

The Examiner found it obvious to modify Bolin to display the physical location of each

storage device in an equivalent way to the display of the cartridge location, the motivation being

the same as the motivation to display the cartridge location in the first place. Namely, that it

would make the device easier to find when there are a large number of devices or the devices

are spread out over a large area *(such as is the case for home locations, column 10 lines 21-30*

and figure 4). Therefor, the Examiner asserts that it is an obvious modification of Bolin to display

physical locations of storage devices in the same textual manner as is done for cartridge home locations.

Finally, the Examiner found it obvious to modify Bolin's GUI window *(that shows information about storage devices and cartridges, figure 5)* to be able to be sorted by any given column. The Examiner notes that this functionality is notoriously well known in the art in Windows-style GUI systems, and cited Jennings to disclose ordering a set of rows by a given column in ascending or descending order *(sort ascending / sort descending buttons, table 3.2)*. Therefore, as combined, when Bolin's home location of cartridges was sorted in ascending or descending order, it would be sorting it based on the textual representation of the cartridge location, putting all VLT17R1's next to each other, and putting all VLT14R4's next to each other. Likewise, when Bolin's physical location of each storage device was sorted, devices with the same textual representation of their location would be next to each other on the sorted list.

The Examiner asserts that such sorting clearly can be said to have been done *"based on proximity"*, because the sorted textual representation is based on proximity in the sense that devices or cartridges with the same location would end up next to each other on the sorted list. Accordingly, the Examiner asserts that the result of sorting a column of Bolin according to a combination with Jennings would be a sort based on proximity.

Regarding **Claim 1**, the Appellant contends *(pg 11, "Second …")* that: **"The PTO appears to make an unwarranted leap from identification of physical locations to proximity of those same locations"**. The Examiner respectfully disagrees. As described above, a sort of the textual representation of the locations of cartridges and devices would put items with the same location next to each other. This sorting can then be said to be *"based on proximity of the remaining backup devices … to the first backup device"*, because the sort will put devices with the same location next to the first backup device on the list. The claim

language *"based on"* merely requires that the sorting be *in some way* based on the proximity.

Accordingly, the Examiner asserts that it is not an unwarranted leap to consider the sorting of a

location as described by Bolin to be based on proximity when devices with the same location

would be grouped.

Regarding **Claim 1**, the Appellant contends *(pg 11, "Third ...")* that **neither Jennings**

nor Bolin discloses sorting the list by physical location. The Examiner respectfully

disagrees with this requirement, as neither reference was relied upon for solely teaching the

entire limitation. Bolin was relied upon for the teaching of a list of physical locations of

cartridges, and the Examiner found it obvious to additionally list the physical locations of storage

devices. Jennings was relied upon for the sorting of a list by an arbitrary column. The

Examiner's phrasing that Jennings teaches *"sort[ing] that list by physical location"* was in

reference to Jennings disclosure of sorting an arbitrary column, which in Bolin's case could be a

column of physical locations. In response to Appellant's arguments against the references

individually, one cannot show nonobviousness by attacking references individually where the

rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding **Claim 1**, the Appellant contends *(pgs 11-12, "Fourth ...")* that: **"The PTO**

appears to have improperly applied hindsight reasoning based on Applicant's subject

matter to supply the missing disclosure and attempt to support the above leap from

sorting by physical location ordering the list based on proximity". The Examiner

respectfully disagrees.

In response to Appellant's argument that the examiner's conclusion of obviousness is

based upon improper hindsight reasoning, it must be recognized that any judgment on

obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so

long as it takes into account only knowledge which was within the level of ordinary skill at the

time the claimed invention was made, and does not include knowledge gleaned only from the

Appellant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392,

170 USPQ 209 (CCPA 1971).

In this case, Bolin clearly discloses displaying a textual representation of a location in list

form *(column 11 lines 1-7, figure 4)*. Though Bolin only appears to expressly disclose displaying

the location of cartridges, the Examiner found it to be obvious to a person having ordinary skill in

the art to list this information additionally for the storage devices. The Appellant does not appear

to deny that this would be obvious to a person having ordinary skill in the art. As stated

previously, the Examiner found it obvious to modify Bolin's GUI window that shows information

about storage devices and cartridges to be able to sort by any given column, and cited Jennings

to disclose ordering a set or rows by a given column in ascending or descending order *(sort

ascending / sort descending buttons, table 3.2)*.

The Appellant appears primarily concerned about whether or not this sorting can be

considered sorting *"based on proximity"*. The claim language *"based on"* merely requires that

the sorting be *in some way* based on the proximity. Sorting a column by its values would place

items having the same values next to each other. In this case, these values are textual

representations of location. Sorting a list so that items having the same location are next to each

other can clearly be seen as a sort that is based on proximity of items to other items. The

Examiner asserts that there was no great leap from *"sorting by physical location"* to *"ordering

the list based on proximity"*. Bolin's description of the values being sorted is enough that an

ascending or descending sort of the textual locations could be considered as being *"based on

proximity"*.

Regarding **Claim 1**, the Appellant contends *(pg 12, "Fifth …")* that: **"Bolin appears to describe a particular sort for the actions which is not proximity-based. For at least this reason, reversal of the rejection is respectfully requested"**. The Examiner respectfully disagrees with this rationale. Initially, the Examiner notes that the rejection was not based solely on Bolin, but rather Bolin view of Jennings. The Examiner found it obvious to modify Bolin in order to be able to sort a given column in ascending or descending order. Bolin makes no statement to the effect that ordering based on the order tasks are to be performed is necessary, strictly required or is the only way the system would function. Rather, Bolin states *"Actions should preferably be performed in the sequence listed" (column 9 lines 66-67)*. Bolin does not state a preference for having the list ordered in this way, merely that the actions should be undertaken in the listed order. As such, the Examiner asserts that Bolin's statement of preference regarding what order actions should be taken is in no way incompatible with proposed combination of Bolin and Jennings.

Regarding **Claims 13 and 19**, the Appellant contends *(pg 12, "Based on …")* that said claims **"are patentable over Bolin in view of Jennings at least for reasons similar to those advance above with respect to claim 1"**. The Examiner respectfully disagrees, and directs the Board to the Examiner's traversal of Appellants arguments regarding Claim 1 above.

Regarding **Claims 2-9, 14, 15, 20-22 and 24-27**, the Appellant contends *(pg 12, "Claims 2-9 …")* that said claims **"are patentable over Bolin in view of Jennings for at least the reasons advanced above with respect to claim 1"**. The Examiner respectfully disagrees, and directs the Board to the Examiner's traversal of Appellants arguments regarding Claim 1 above.

Regarding **Claim 6**, the Appellant contends *(pgs 12-13, "Additionally …")* that: **"The order number … is assigned based on physical proximity of data centers to each other … (and) does not relate to subjective interpretation of data"**. The Examiner respectfully

disagrees, and notes that the requirement *"is assigned based on physical proximity of data centers to each other"* does not appear explicitly or implicitly in the claim. Claim 6 merely requires "assigning an order number to each of the grid locations", and makes no explicit requirement as to what this order number represents, any specific qualities or other limitations. More specifically, the specification states *(paragraph 21)*:

> In one embodiment, the list may be ordered using an order number associated with each of the backup devices. The order number **may** indicate the physical proximity of the devices to the first device an operator will load.

As such, there is no specific definition in the specification that would require the Examiner to interpret the order number in a way that is inconsistent with being data. As such, the Examiner asserts that the order number does relate to subject interpretation of data and does not patentably distinguish the claimed subject matter from the applied references.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding **Claim 8**, the Appellant contends *(pg 13, "Additionally ...")* that: **"The physical location of Bolin is not both a physical location and an order number as claimed"**. The Examiner respectfully disagrees. There is nothing in the claim language that would render inconsistent an interpretation of the order number as being the physical location. Claim 1 reads *"ordering the list by physical location"*, but does not claim the physical location as an element separate from the order number. As combined, Bolin in view of Jennings discloses ordering a list by the physical location of a storage device. The physical location fulfills the limitation *"order number"*, and the ordering of the list by this order number fulfills the limitation *"ordering the list by physical location"*. The Examiner asserts that there is no inconsistency in this interpretation, and that the physical location of a storage device can adequately and reasonably be considered as fulfilling the order number.

Claims Rejections – 35 USC ' 103 – Bolin, Jennings and Kanai

Regarding **Claims 10-12, 16-18 and 23**, the Appellant contends *(pg 14, VIII part B)* that said claims **"are believed patentable over Bolin in view of Jennings are further in view of Kanai for at least reasons similar to those advanced above with respect to amended claim 1"**. The Examiner respectfully disagrees, and directs the Board to the Examiner's traversal of Appellants arguments regarding <u>Claim 1</u> above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Samuel A. Dillon/

Conferees:

/Sanjiv Shah/

Supervisory Patent Examiner, Art Unit 2185

/Kevin L Ellis/
Acting SPE of Art Unit 2187